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PASSED AT THE SECOND SESSION OF THE  
LEGISLATIVE ASSEMBLY,

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CHAPTER 129.

OF APPEALS, NEW TRIALS, AND EXCEPTIONS IN CRIMINAL CASES.

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SEC. 213. Every person convicted before a justice of the peace of any offence, may appeal from the sentence to the district court, then next to be held in the same county, and such appellant shall be committed to abide the sentence of said justice, until he shall recognize to the United States in such reasonable sum, with such surities as said justice shall require, with condition to appear at the court appealed to, and there to prosecute his appeal, and to abide the sentence of the court thereon, and in the mean time to keep the peace, and to be of good behavior.

Person convicted by justice may appeal to district court.

SEC. 214. The justice, on such appeal shall make a copy of the conviction and other proceedings in the case and transmit the same, together with the recognizance, if any shall be taken, to the clerk of the court appealed to; and the fees of the justice therefor shall be paid from the county treasury, in like manner as other costs in criminal prosecutions are paid.

Justice to make copy of conviction, &c., and file the same with the clerk.

SEC. 215. The appellant shall not be required to advance any fees in claiming his appeal, nor in prosecuting the same; but if convicted in the district court, or if sentenced for failing to prosecute his appeal, he may be required, as a part of his sentence, to pay the whole or any part of the costs of prosecution.

Appellant not required to pay costs before appeal is taken.

SEC. 216. If the appellant shall fail to enter and prosecute his appeal he shall be defaulted on his recognizance if any was taken, and the district court may award sentence against him for the offence whereof he was convicted, in like manner as if he had been convicted thereof in that court, and if he is not then in custody, process may be issued to bring him into court to receive sentence.

If defendant fail to prosecute appeal, his recognizance to be forfeited.

SEC. 217. Whenever upon suit brought upon any recognizance to prosecute an appeal, the penalty thereof shall be adjudged to be forfeited, or when by leave of the court, such penalty shall have been paid to the county treasurer or to the clerk of the court, without a suit or before judgment shall be given in a manner by law provided, if by law any forfeiture shall accrue to any person by reason of the offence of which the appellant was convicted, the court may award to him such sum as he may be entitled to out of such forfeiture.

Proceedings upon suit brought upon recognizance.

SEC. 218. The district court may, at the term in which the trial of any indictment may be had, or within one year thereafter, or the supreme court within one year thereafter, on the petition or motion in writing of the defendant, grant a new trial for any cause for which by

New trial of indictment when granted

law a new trial may be granted, or when it shall appear to the court that justice has not been done, and on such terms or conditions as the court may direct.

Exceptions may be taken to judgment or decision of the district court.

SEC. 219. Any person who shall be convicted of an offence before the district court, being aggrieved by any opinion, direction or judgment of the court, in any matter of law, may allege exceptions to such opinion, direction, or judgment; which exceptions being reduced to writing in a summary mode, and presented to the court any time before the end of the term, and found conformable to the truth of the case, shall be allowed and signed by the judge, and thereupon all further proceedings in that court shall be stayed, unless it shall clearly appear to the judge, that such exceptions are frivolous, immaterial, or intended only for delay; and in that case judgment may be entered and sentence awarded in such manner as the judge may deem reasonable, notwithstanding the allowance of such exceptions.

Effect of exception.

When question of law arising on the trial may be prosecuted to the supreme court.

SEC. 220. If upon the trial of any person who shall be convicted in said district court, any question of law shall arise, which in the opinion of the judge shall be so important or so doubtful as to require the decision of the supreme court, he shall, if the defendant desire it, or consent thereto, report the case so far as may be necessary to present the question of law arising therein, and thereupon all proceedings in that court shall be stayed.

When in such cases defendant may recognize to appear.

SEC. 221. Any person not being accused with an offence punishable with death, who shall file exceptions, or for whose benefit a report shall be made by the judge, as is provided in the two preceding sections, may recognize to the United States in such sum as the judge shall order, with sufficient sureties for his personal appearance at the supreme court at the then next term thereof, and to enter and prosecute his exceptions with effect and abide the sentence thereon, and in the mean time keep the peace and be of good behavior.

When in such case defendant to be committed.

SEC. 222. If any person, so filing exceptions or desiring a report to be made by the judge, shall not so recognize, he shall be committed to prison to await the decision of the supreme court, and in that case, the clerk of the court in which the conviction was had, shall file a certified copy of the record and proceedings in the case in the supreme court, and the court shall have cognizance thereof and consider and decide the questions of law, and shall render judgement, and award such sentence, or make such order thereon as law and justice shall require; and if a new trial is ordered, the cause shall be remanded to the said district court for such new trial, but the proceedings here prescribed shall not deprive any party of his writ of error for an error or defect appearing of record.

Clerk to file copy of record in supreme court.

Judgment of supreme court.